

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CARLEE ANN CAMPBELL,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. 08-10843

Honorable Julian Abele Cook, Jr.

ORDER

On February 29, 2008, the Plaintiff, Carlee Ann Campbell, filed a complaint pursuant to 42 U.S.C. § 405(g), seeking a review of a final decision by the Social Security Administration (“SSA”) which had denied her request for disability benefits. Thereafter, this matter was referred to Magistrate Judge Charles Binder for a determination of all non-dispositive motions and the issuance of a Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1). On June 4, 2008, the Plaintiff filed a motion for summary judgment, in which she asked the Court to reverse the decision by the SSA. A similar dispositive motion was submitted to the Court by the Defendant on July 1, 2008. On August 18, 2008, Magistrate Judge Binder submitted his report to the Court in which he recommended that the Defendant’s motion for summary judgment be granted. However, the Plaintiff has not proffered any objections to the report as of this date.¹

¹Pursuant to 28 U.S.C. § 636(b)(1), the parties to this action may object to and seek review of the report and recommendation within ten (10) days of service. Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140

I.

The Plaintiff filed an application for Disability Insurance Benefits and Social Security Supplemental Security Income benefits on March 3, 2004, contending that she had been unable to work since July 3, 2003. When her claims were denied at the administrative level of the SSA, the Plaintiff presented her evidence during a hearing before Administrative Law Judge (“ALJ”) Peter Dowd who concluded on September 7, 2007 that she was not disabled within the meaning of the Social Security Act. This decision became the final decision of the SSA on December 26, 2007 when its Appeals Council denied her request for a review. A complaint to this Court followed.

II.

Final decisions of the Social Security Administration can be reviewed by this Court to ensure that they are supported by substantial evidence. 42 U.S.C. § 405(g). The term, “substantial evidence,” means less than a scintilla but more than a preponderance. It is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Kirk v. Secretary*, 667 F.2d 524, 535 (6th Cir. 1981). The Court is without authority to try the case *de novo*, resolve any existing conflicts in the evidence, or assess and decide questions of credibility. *Id.*

A review of the record in this case indicates that the final determination by ALJ Dowd, who had concluded that the Plaintiff’s combination of impairments failed to satisfy or equal one of the listings within the regulations, is supported by substantial evidence. 20 C.F.R. §§ 404.1520, 416.920. Although the Plaintiff’s IQ scores are within the ranges of the SSA’s Listing (20 C.F.R. Pt. 404, Subpt. P, App. 1, § 12.05 (“Listing 12.05”)), the Court agrees with the conclusions of

(1985).

Magistrate Judge Binder who opined that there is no “evidence in this record to support the remaining requirements of this listing” (to wit, marked restrictions of activities of daily living; marked difficulties in maintaining social functioning; marked difficulties in maintaining concentration, persistence, or pace; or repeated episodes of decompensation, each of extended duration). Inasmuch as the facts of this case are inconsistent with a finding of disability under Listing 12.05, the Court concludes that the decision by ALJ Dowd is supported by substantial evidence.

IV.

For the reasons that have been stated above, the Court adopts in full the report of Magistrate Judge Binder. Therefore, the Court grants the Defendant’s motion for summary judgment and denies the Plaintiff’s request for the same relief.

IT IS SO ORDERED.

Dated: January 14, 2009
Detroit, Michigan

s/Julian Abele Cook, Jr.
JULIAN ABELE COOK, JR.
United States District Court Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Order was served upon counsel of record via the Court’s ECF System to their respective email addresses or First Class U.S. mail to the non-ECF participants on January 14, 2009.

s/ Kay Alford
Case Manager